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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,112

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Ram Shmueli

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EXAMINER

BARBEE, MANUEL L

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/552,112	<b>Applicant(s)</b> SHMUELI ET AL.	
	<b>Examiner</b> MANUEL L. BARBEE	<b>Art Unit</b> 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

1. The attempt to incorporate subject matter into this application by reference to the article "Cuff-less Continuous Monitoring of Beat-To-Beat Blood Pressure Using Sensor Fusion" is ineffective because it is not clearly identified. The reference is referred to as IEEE article by three articles and is identified as available at a uniform resource locator address in amended paragraph 51. However, the article appears to be no longer available at that address and no article with an identical title was found at the IEEE website.

2. The incorporation by reference will not be effective until correction is made to comply with 37 CFR 1.57(b), (c), or (d). If the incorporated material is relied upon to meet any outstanding objection, rejection, or other requirement imposed by the Office, the correction must be made within any time period set by the Office for responding to the objection, rejection, or other requirement for the incorporation to be effective. Compliance will not be held in abeyance with respect to responding to the objection, rejection, or other requirement for the incorporation to be effective. In no case may the correction be made later than the close of prosecution as defined in 37 CFR 1.114(b), or abandonment of the application, whichever occurs earlier.

Any correction inserting material by amendment that was previously incorporated by reference must be accompanied by a statement that the material being inserted is the

material incorporated by reference and the amendment contains no new matter. 37  
CFR 1.57(f).

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 20 and 38 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 20 and 38 have been amended to include limitations for a USB dongle. However, the originally filed specification includes no description of a USB dongle. Applicants remarks refer to US design patents D462,689 and D468,090, which were incorporated by reference on page 18, lines 16-18 of the specification, in support of this amendment; however, neither of these design patents refers to a USB dongle.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 17-19, 21-23, 29 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application 2002/0118112 to Lang (Lang1).

With regard to a measuring device, as shown in claim 17, Lang1 teaches sensors that wirelessly transmit measurements (Fig. 1, sensor 15, par. 19). With regard to a portable wireless gateway, as shown in claim 17, Lang1 teaches a receiver that receives the signal from the sensors and interfaces with a wireless communication unit (Fig. 1, receiver 18; par. 21). With regard to a computer with a standard port, as shown in claim 17, Lang1 teaches a wireless communication unit (Fig. 1, wireless communication unit 20, par. 19).

With regard to a central server, as shown in claim 18, Lang1 teaches a central computer (Fig. 1, central computer 60; par. 18). With regard to a computer network, as shown in claim 18, Lang1 teaches a wide area network (WAN) (Fig. 1, WAN 45; par. 19).

With regard to measuring a medical parameter, as shown in claim 19, Lang1 teaches measuring a health parameter (par. 20).

With regard to storing personal information, as shown in claim 21, Lang1 teaches storing a name and a password (par. 25).

With regard to using the information for authentication, as shown in claim 22, Lang1 teaches using information for access to a medical database (par. 25).

With regard to medical data, as shown in claim 23, Lang1 teaches storing health information (par. 25).

With regard to a wearable device, as shown in claim 29, Lang1 teaches a wearable sensor (par. 19).

With regard to an Internet computer network, as shown in claim 30, Lang1 teaches using the Internet (par. 28).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 20, 24-27 and 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang1 in view of US Patent Application Publication 2002/0078367 to Lang et al. (Lang2).

Lang1 teaches all the limitations of claim 17 upon which claims 19, 24-27 and 35 depend.

Lang1 does not teach a portable wireless gateway is a USB dongle, as shown in claim 20, or that emulates a USB flash memory device, as shown in claim 24. Lang2 teaches a portable device that emulates a flash disc, interfaces with a USB port and that is a wireless interface (pars. 24, 46, 52; Figs. 1, 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical

treatment system, as taught by Lang1, to include a portable device, as taught by Lang2, because then data would have been protected when using more than one computer (Lang2, par. 3).

Lang1 does not teach that the portable wireless gateway stores software that a PC operates from the portable device or flash memory disk and that the PC does not install, as shown in claims 25-27, or that the port is a USB port, as shown in claim 35. Lang2 teaches software on the portable device that is readily executable upon interface with the USB port (par. 27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical treatment system, as taught by Lang1, to include software and a USB interface, as taught by Lang2, because then the portable device would have been easily used with multiple computers (Lang2, par. 3).

With regard to a measuring unit, as shown in claim 36, Lang1 teaches sensors that wirelessly transmit measurements (Fig. 1, sensor 15, par. 19). With regard to a computer connected to a computer network, as shown in claim 36, Lang1 teaches a wireless communication unit (Fig. 1, wireless communication unit 20, par. 19). With regard to a central server connected over a computer network, as shown in claim 36, Lang1 teaches a central computer (Fig. 1, central computer 60; par. 18) and a wide area network (WAN) (Fig. 1, WAN 45; par. 19). With regard to a wireless communication unit, as shown in claim 36, Lang1 teaches a receiver that receives the signal from the sensors and interfaces with a wireless communication unit (Fig. 1, receiver 18; par. 21). With regard to an interface module, as shown in claim 36 Lang 1

teaches that the receiver is connected to a wireless communication unit (Fig 1, receiver 18, communication unit 20). With regard to the portable wireless gateway becoming a part of the remote medical monitoring system, as shown in claim 36, Lang1 teaches a receiver that is part of the remote monitoring and measuring (pars. 18, 19).

Lang does not teach that the portable wireless gateway includes a non-volatile memory and a processing unit that processes receives physiological data, as shown in claim 36. Lang2 teaches an interface with a processor and a non-volatile memory (pars 24, 46, 52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical treatment system, as taught by Lang1, to include a portable device with a processor and a memory, as taught by Lang2, because then data would have been protected when using more than one computer (Lang2, par. 3).

Lang1 does not teach that the connection is a USB connection or that the gateway is a USB dongle, as shown in claims 37 and 38. Lang2 teaches a portable device that emulates a flash disc, interfaces with a USB port and that is a wireless interface (pars. 24, 46, 52; Figs. 1, 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical treatment system, as taught by Lang1, to include a portable device, as taught by Lang2, because then data would have been protected when using more than one computer (Lang2, par. 3).

With regard to storing personal information, as shown in claim 39, Lang1 teaches storing a name and a password (par. 25).



Lang1 does not teach storing software that will be operated by the computer for operating the remote medical monitoring system, as shown in claim 40. Lang2 teaches software on the portable device that is readily executable upon interface with the USB port (par. 27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical treatment system, as taught by Lang1, to include software and a USB interface, as taught by Lang2, because then the portable device would have been easily used with multiple computers (Lang2, par. 3).

9. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang1 in view of Lang2 as applied to claim 25 above, and further in view of US Patent No. 6,985,078 to Suzuki et al. (Suzuki).

Lang1 and Lang2 teach all the limitations of claim 25 upon which claim 38 depends. Lang1 and Lang2 do not teach that the software analyzes measured data and alerts the user. Suzuki teaches alerting an user to medical conditions (col. 7, lines 43-63). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical treatment combination, as taught by Lang1 and Lang2, to include alerting the user to medical conditions, because the user would have adequate information about the user's status (Suzuki, col. 1, lines 59-67).

10. Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang1 in view of US Patent No. 7,001,334 to Reed et al. (Reed).

Lang1 teaches all the limitations of claim 17 upon which claims 31 and 32 depend. Lang1 does not teach a movement sensor for measuring breathing, as shown in claims 31 and 32. Reed teaches measuring respiration (Fig 1, respiration sensor

270). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical treatment system, as taught by Lang1, to include measuring respiration, as taught by Reed, because then a vital sign of health would have been monitored (Reed, col. 1, lines 20-29).

11. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang1 in view of US Patent No. 5,973,603 to Judy (Judy).

Lang1 teaches all the limitations of claim 17 upon which claim 33 depends. Lang1 does not teach a smoke detector, as shown in claim 33. Judy teaches a smoke detector (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical treatment system, as taught by Lang1, to include a smoke detector, as taught by Judy, because then the user would have been alerted to the presence of fire (Judy, col. 1, lines 24-29).

12. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang1 in view of US Patent No. 2,135,476 to Rugh (Rugh).

Lang1 teaches all the limitations of claim 17 upon which claim 34 depends. Lang1 does not teach a burglary alarm, as shown in claim 34. Rugh teaches a hold-up alarm (col. 1, lines 1-6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the medical treatment system, as taught by Lang1, to include a hold-up alarm, as taught by Rugh, because then a hold-up of the user would have been alerted to others.

***Response to Arguments***

13. Applicant's arguments filed 20 February 2008 have been fully considered but they are not persuasive. Applicant states that Lang 1 (US Patent Application Publication No. 20020118112) teaches a wireless communication unit that is connected (coupled) to the measurement sensor and communicating via a wide area network to a central computer as opposed to claim 17, which describes a portable wireless gateway that is connected to a computer and is wirelessly communicating with the measuring device. Applicant states that Lang1 teaches a central computer that communicates, via the wide area network 45 and the wireless communication network 40 with the wireless communication unit 20, which corresponds to the portable wireless gateway of claim 17. However, with regard to a measuring device, as shown in claim 17, Lang1 teaches sensors that wirelessly transmit measurements (Fig. 1, sensor 15, par. 19). With regard to a portable wireless gateway, as shown in claim 17, Lang1 teaches a receiver that receives the signal from the sensors and interfaces with a wireless communication unit (Fig. 1, receiver 18; par. 21). With regard to a "computer (PC) standard port to which the portable wireless gateway is connected to", as shown in claim 17, Lang1 teaches a wireless communication unit (Fig. 1, wireless communication unit 20, par. 19). The receiver 18 is connected to the wireless communication unit 20, which corresponds to the computer with a standard port.

***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel L. Barbee whose telephone number is 571-272-2212. The examiner can normally be reached on Monday-Friday from 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Manuel L. Barbee/  
Examiner, Art Unit 2857

mlb  
February 20, 2008